MUNICIPAL SEWAGE REGULATION

Compliance Guideline
Meeting the Intent and Requirements of the Municipal Sewage Regulation

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BRITISH COLUMBIA

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Pollution Prevention and Remediation Branch

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1. Introduction

When the government of BC enacted the Municipal Sewage Regulation (the regulation) on July 15th, 1999, it set in motion changes that promised to affect municipal sewage treatment and discharge for many years to come. The regulation sets clear standards for municipal sewage discharge and calls upon dischargers and other stakeholders to fulfil previously under-recognized responsibilities.

All stakeholders share responsibility for the protection of human health and the environment. Accordingly, this guideline reflects the Ministry of Environment, Lands and Parks' (the ministry's) ongoing shift toward shared governance. It promotes compliance with the regulation by identifying the roles and responsibilities of all stakeholders, and encourages them to demonstrate their ethical and legal accountability.

This guideline presents a range of compliance options, so that voluntary and enforcement actions can better accommodate case-by-case circumstances, such as assessed risk, the performance record of each discharger, ministry resources, and other factors. In this way, it ensures the protection of human health and the environment through responsiveness, co-operation, and adaptability – qualities which must be reflected in dischargers' compliance strategies.

A compliance strategy is a formal statement that details how compliance with regulation, policy, and legislation will be achieved and maintained. It should identify efforts made to meet the regulation's requirements, as well as contingency plans for non-compliance events. An effective compliance strategy is critical to good environmental stewardship.

The ministry expects the regulation to yield positive and improving environmental outcomes – improved water quality foremost among them – as well as other benefits. These should include cost savings and increased ease of registration of discharge sites under the *Waste Management Act*. While not all benefits will be measurable, trends in water quality will be tracked and reported in the ministry's annual *State of the Environment* report and the rate of discharger registration will appear in audit statistics reported over the coming years.

By putting forward new legal obligations where social and environmental responsibilities already exist, the regulation requires all involved parties to act in partnership. By enhancing adaptability while encouraging shared responsibility, it will help to protect the environment.

This guideline is meant as an aid to implementing and complying with the regulation. It does not replace the *Waste Management Act* or its regulations in whole or in part, nor does it list all of the provisions relating to municipal sewage discharge. Wherever this guideline disagrees with the *Waste Management Act*, the act and its attendant regulations apply.

For dischargers of municipal sewage, the regulation provides standards, requirements, and provisions for compliance with the *Waste Management Act*. However, compliance with the regulation does not necessarily ensure compliance with other federal, provincial, or municipal laws (e.g. *Fisheries Act*).

2. Target Audiences

The ministry has historically relied on a "hard" enforcement approach to achieve compliance with its regulations. For the most part, this approach relied solely on ministry staff for inspections, monitoring, and initiating enforcement actions.

In the ministry's new approach of employing a compliance continuum, the roles and responsibilities of a much wider array of stakeholders are recognized. The target audiences for this guideline are those stakeholders, including:

- the general public
- suppliers of wastewater treatment, reuse, and disposal services and equipment
- qualified professionals who provide services to dischargers
- registered dischargers of municipal sewage
- non-government environmental organizations
- local and regional government bodies
- other government agencies
- the ministry.

This guideline appears on the ministry's website (www.elp.gov.bc.ca). It will also be promoted by various means, including notices to stakeholders and public profile at conferences (e.g. UBCM).

3. Purpose, Scope, and Guiding Principles

When it enacted the regulation, the government of BC provided an important new legal tool for the protection, enhancement, and wise use of the environment. However, a key measure of success in environmental protection is the degree to which regulated parties comply with requirements. This guideline promotes compliance by clearly identifying the roles and responsibilities of all stakeholders in the compliance continuum. This includes a range of activities from voluntary actions to legal court proceedings.

This guideline also reflects the ministry's ongoing shift toward shared governance involving new partnerships, greater reliance on stewardship, and increased involvement by all stakeholders. It incorporates the roles and responsibilities of stakeholders in the compliance process and identifies actions necessary for compliance with the regulation, such as discharge monitoring and reporting. Complementary actions may include voluntary facility audits, facility upgrades, and adoption of innovative technologies and methods.

The guideline presents a range of compliance options, so that compliance actions can be chosen to reflect circumstances in light of assessed risk and the performance record of each responsible party. Compliance actions are prioritized and the measures to determine their effectiveness identified.

Guiding principles in achieving compliance:

- The ministry will promote and facilitate compliance by raising awareness of the regulation through promotional and educational tools and activities.
- Compliance actions will be scaled to the severity and frequency of non-compliance.
- Enforcement will be consistent, impartial, and timely.

4. Roles and Responsibilities

The General Public

An aware and concerned public has an important role in the implementation of the regulation, and in monitoring compliance. Local and provincial agencies also receive citizen's contributions to policy development and reports of potential non-compliance.

The general public can:

- contribute to compliance monitoring as individuals or through local stewardship groups
- encourage local governments to undertake liquid waste management planning
- participate in the planning and implementation of local liquid waste management plans
- identify and report environmental problems to local and provincial agencies.

The regulation itself reflects input from a wide stakeholder audience, and by policy the ministry responds to all complaints received from the public.

Suppliers

Suppliers are given the challenge to supply waste water treatment technologies that meet regulation requirements. This includes constructing, operating, and maintaining treatment systems and associated services. Thus, the regulation provides opportunities for supplier enterprises offering innovative technologies, products, and services. Suppliers also have the opportunity to observe compliance and to report non-compliance to dischargers and regulatory agencies.

Qualified Professionals

The regulation incorporates the principle of professional accountability by recognizing and relying upon professionals' responsibility to ensure compliance within the scope of their areas of practice. The regulation and its attendant policies and procedures define qualified professionals and outline expected professional standards.

With respect to compliance measurement, the regulation requires dischargers to hire qualified professionals to:

- design sewage facilities that include suitable sampling facilities
- develop operating plans that include suitable sampling and monitoring procedures
- design receiving-environment monitoring programs
- analyze annual effluent monitoring and environmental data for larger dischargers.

Qualified professionals are expected to follow the precautionary principle in exercising their responsibilities regarding facilities that require registration. They are also expected to bring to the attention of their clients and the Regional Waste Manager any situation within their area of

expertise in which the regulation is not adequately protective of human health or the environment, and to recommend protective measures.

Dischargers

Each discharger is responsible to know and comply with applicable provincial and federal legislation, including the Municipal Sewage Regulation. Moreover, the regulation assumes dischargers' sound stewardship ethics and professional accountability. Accordingly, each discharger should be prepared to protect human health and the environment. This responsibility includes retaining the services of qualified professionals to:

- conduct required monitoring and studies
- design and supervise construction of sewage facilities
- prepare operating plans for sewage facilities.

When selecting qualified professionals, each discharger should focus primarily on quality of service, rather than pricing. The services of a qualified professional typically form a small portion of the life-cycle cost of a sewage facility, and help to control those costs. Indeed, qualified professionals are critical to the success of any sewage facility.

With respect to compliance measurement, the regulation requires dischargers to:

- hire certified operators
- inspect sewage facilities regularly and keep them in good working order
- notify the Regional Waste Manager immediately of any malfunctions that affect compliance
- take appropriate preventive and remedial actions
- monitor their discharge and receiving environments
- retain monitoring data for inspection by the Regional Waste Manager
- submit monitoring data to the Regional Waste Manager
- submit an annual report to the Regional Waste Manager (larger dischargers).

Each discharger must take appropriate corrective action to:

- resolve all facility malfunctions as quickly as possible
- develop and implement remedial plans to address any adverse environmental or health impacts arising from non-compliance
- remedy ineffective monitoring and data handling.

Dischargers should carefully consider using assurance plans to reduce risks of non-compliance. Local governments can apply assurance plan concepts in planning for their own sewage treatment, reuse, and disposal operations. Dischargers can demonstrate leadership by ensuring that their discharges meet or exceed the regulation's requirements.

Non-government Organizations (NGOs)

NGOs can proactively support compliance with the regulation by becoming publicly visible observers and reporters of non-compliance (the watchdog role). They can also make important contributions to ministry compliance and enforcement policy development.

NGOs' proactive support would be best implemented by the formation of ongoing, formal watchdog groups, with specific objectives of observing discharge operations, reviewing

monitoring data, and periodically reporting to the ministry on specific discharge sites. Such groups would be most effective if known to and recognized by the ministry and the discharger as adjuncts to ministry enforcement resources.

Local Governments

Local governments have three roles with respect to the regulation:

- planning
- stewardship
- discharging.

Planning
The *Waste Management Act*, the Municipal Sewage Regulation, and the *Local Government Act* provide opportunities for local governments to develop liquid waste management plans and local service areas. These allow local governments to create innovative, affordable, local solutions for sewage collection, treatment, reuse, and discharge that protect the environment and human health.

Stewardship
The regulation encourages local governments to establish source control programs, to promote water conservation and reuse of reclaimed water, and to co-operate with local groups interested in monitoring the environment and/or local sewage discharges. It also encourages direct involvement in measuring compliance.

Discharging
All local governments that discharge bear the full responsibilities of dischargers. These include the responsibility to co-operate with provincial agencies in implementing the regulation, and to co-ordinate programs that manage local effluent discharges.

Other Government Agencies

Other government agencies – especially those that have field operations such as local health authorities; the Ministry of Agriculture, Food and Fisheries; the Land Reserve Commission; Environment Canada; and Oceans and Fisheries Canada – have an important role in monitoring compliance. As they perform their routine functions, these agencies can observe and report suspected non-compliance to the Regional Waste Manager.

The Ministry of Municipal Affairs can also encourage compliance by establishing criteria that require compliance as a pre-requisite for financial assistance under any planning or capital grant programs.

The Ministry of Transportation and Highways can promote compliance by ensuring that proponents in its rural land subdivision process clearly demonstrate that they will comply with the regulation.

The Ministry

The ministry's role involves setting clear environmental protection standards and developing and

implementing policies, procedures, and guidelines to enable compliance with those standards. The ministry also measures compliance and takes appropriate enforcement actions.

To fulfil its role in promoting compliance and monitoring performance, the ministry may require dischargers to make monitoring data available either directly to interested parties or through posting the data on the internet. As well, the ministry will endeavour to provide information to target audiences through various means such as its website.

The regulation specifies the standards that registered dischargers of municipal sewage must meet to protect human health and the environment. The ministry's options to determine compliance with these standards include:

- discharger self-monitoring based on requirements to inspect, monitor, and report
- peer group monitoring
- ministry inspections and monitoring
- third party inspections and monitoring
- evaluation of monitoring data submitted by dischargers
- audits of discharge facilities.

While the regulation specifies discharger self-monitoring requirements, appropriate compliance strategies may incorporate further options for compliance measurement. These should address environmental impact, the degree of stewardship demonstrated by each discharger, and the availability of ministry resources.

The ministry also promotes awareness of the regulation and provides procedural guidelines to assist stakeholders in understanding their roles and responsibilities under the regulation.

5. Indicators of Success

Satisfactory environmental protection outcomes, will manifest in a variety of ways, some of which will be more measurable than others. In any case, evaluations of success will reflect the perspectives of interested parties. These parties include:

- the general public and NGOs
- suppliers
- qualified professionals
- dischargers
- local governments
- the ministry.

The General Public and NGOs

Citizens and local environmental groups are likely to consider the regulation successful if:

- dischargers meet the regulation's standards
- dischargers report information openly before, during, and after registration
- dischargers' operating information is accessible
- local governments accept and apply the requirements of the regulation
- there is adequate public awareness
- they are involved in monitoring discharger performance
- the regulation actually protects human health and the environment
- the ministry and dischargers handle complaints quickly and effectively
- the ministry responds effectively to reports of non-compliance
- enforcement actions are effective.

Suppliers

Suppliers should consider the regulation successful if:

- it allows them to implement more innovative and cost-effective solutions
- they can form supplier consortiums to serve dischargers and developers
- local governments will accept innovative solutions.

Qualified Professionals

Qualified professionals should find the regulation successful if:

- there is clear, consistent, fair application of the definition of qualified professionals
- developers and dischargers consistently rely on qualified professionals
- they are consulted when problems arise
- they receive timely guidance from the ministry when needed.

Dischargers

Dischargers are likely to consider the regulation a success if:

- the public accepts their facilities
- the development process and discharge registration procedure are quick
- local governments understand the regulation
- local governments co-operate and assist
- local governments accept local services
- local governments are willing to use their powers to collect taxes and fees to set up local service committees.

Local Governments

As governing agencies, local governments should regard the regulation as successful if:

- dischargers and developers seek local government approvals in a timely manner
- dischargers operate their facilities and meet regulation standards for discharge
- dischargers maintain their facilities so that they operate satisfactorily over time
- the ministry is responsive to their concerns
- local residents are involved in the local government's planning, zoning, or development permit processes leading to the establishment of private sewage facilities
- councils and boards encounter no surprises
- local government staff are involved in environmental assessment and project planning.

The Ministry

The ministry should find the regulation is successful if:

- the environment and public health are protected
- the public accepts the regulation as a better way of doing business and of ensuring adequate protection of the environment and human health
- fewer enforcement actions are needed
- it results in efficient use of ministry resources
- it leads to improved relations with dischargers and local governments
- qualified professionals keep the ministry staff informed of non-compliance
- information and guidance materials minimize requests for information
- citizens report non-compliance issues and events
- dischargers exercise due diligence
- local governments co-operate with ministry staff and report compliance issues and events
- local governments incorporate regulation requirements into their bylaws.

6. Promoting Compliance

Purpose

The ministry promotes compliance to obtain full, voluntary compliance with the regulation province-wide. This section outlines:

- the prerequisites for compliance
- the benefits of compliance
- the tools for promoting compliance
- ministry activities to promote compliance.

Prerequisites for Compliance

To ensure understanding of and enable compliance with the regulation, a discharger should:

- review the regulation, guidelines, guidance documents, and registration package
- understand how the regulation affects their discharge operation
- be informed and have sufficient background knowledge
- understand the consequences of non-compliance
- understand the paperwork process associated with compliance
- understand how much time is allowed to correct non-compliance
- retain the appropriate qualified professionals
- know how to contact the ministry regarding concerns, documents, and guidance.

Benefits of Compliance

Dischargers who comply with the regulation should experience:

- reduced legal and financial risk
- reduced risk of failure
- cost savings
- fulfilment of an obligation to society and the environment
- positive relationships with the community and community groups.

Tools to Promote Compliance

Written Materials

- the regulation
- this guideline
- the discharger registration package
- the assurance plans guideline
- the environmental impact study guideline
- codes of practice for use of reclaimed water
- information sheets
- ministry policies.

Training
- training materials
- packaged training sessions.

Seminars/Conferences
- meetings of professional organizations
- conferences
- guest speakers.

Community Groups
- stream stewardship organizations
- watershed societies
- environmental groups
- monitoring groups.

Ministry Contact
- designated ministry personnel to contact by phone or e-mail
- designated ministry offices to visit for discussion.

Internet Website
- information pages on the ministry website
- links to technology providers
- links to local governments
- other links.

Advertising
- advertisements raising awareness of the resources listed here
- notices to interest groups and technology providers.

Ministry Activities

Ongoing ministry activities to promote compliance include:
- recognizing dischargers for compliance and stewardship
- recognizing monitoring groups for outstanding service
- offering continued access to information
- funding monitoring activities.

7. Achieving Compliance

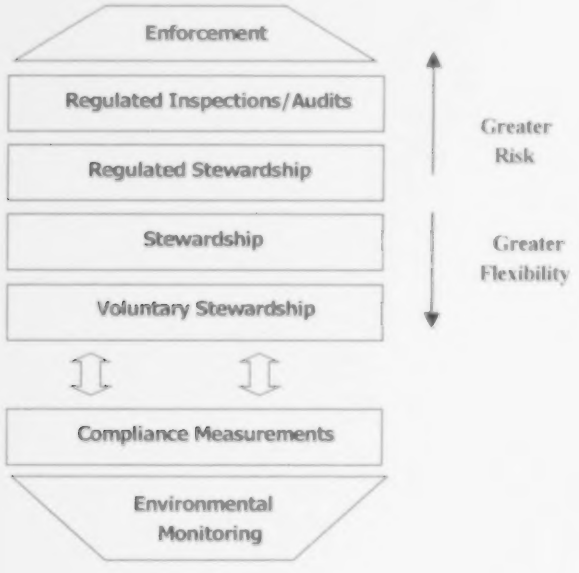
Compliance Approach

With this regulation, the ministry has adopted a compliance approach to ensure that compliance-related resources operate effectively, reflecting its mandate and priorities. This approach is intended to demonstrate a timely and appropriate response to non-compliance.

The ministry intends to focus compliance resources primarily on activities that pose the greatest risk to the environment and human health. Through monitoring and assessing compliance, it can take action to address incidents of non-compliance appropriately.

The ministry intends to encourage compliance, recognize voluntary innovations, and measure the effectiveness of its requirements. This approach should allow a suitable balance of non-enforcement and enforcement activities.

The following diagram illustrates how as risk to environment, human health, or other ministry priorities increases, the options to achieve compliance become less flexible and more enforcement-oriented. Fundamental to choosing compliance options is the need to measure rates of compliance and monitor the environmental outcomes.



Compliance Priorities

Non-compliance with the regulation and/or the *Waste Management Act* will not be tolerated. Every non-compliance situation will be assessed in context to determine the appropriate enforcement response. Any available tool may be used as appropriate to restore compliance.

Table 1 - Priorities

Sensitivity (*increasing*) \ Adverse Effect (*increasing*)			
medium	high	high
low	medium	high
low	low	medium

The more serious the effect or potential effect, the higher the priority the ministry will place on its enforcement response.

Adverse Effect or Potential for Adverse Effect

The following criteria will be considered:

- the degree to which the contravention has *actually* impacted human health
- the degree to which the contravention has *actually* impacted the environment
- the degree to which the contravention *poses a risk* to human health
- the degree to which the contravention *poses a risk* to the environment.

Sensitivity

Sensitivity will be evaluated following these criteria:

- the magnitude of non-compliance
- the history of complaints or non-compliance
- whether the contravention was intentional, accidental, or negligent
- the discharger's efforts to comply
- the discharger's history of co-operativeness with the ministry
- the extent to which the discharger has exercised due diligence
- whether the discharger gained or stood to gain economic benefit from non-compliance.

Compliance Continuum

The compliance continuum ranges from voluntary actions for compliance to legal action against non-compliance. Each action in the continuum is an option that the ministry may exercise or forego at its discretion, considering the circumstances of each specific case and the resources available. In all cases, the ministry will ensure that expectations are clearly defined and actions clearly communicated.

Voluntary Actions

The incentives promoting voluntary compliance include:

- eliminating the time-consuming permit process
- providing the option of developing an assurance plan
- encouraging use of the *Liquid Waste Management Plan* process as a flexible option for local government
- reducing costs through known standards and procedures
- providing advance notice of potential non-compliance through monitoring.

Education and Training

The ministry will publish guidelines, policies, procedures, and other materials to promote compliance. Professionals or professional organizations may also be encouraged to provide training, consulting, and trouble-shooting.

Monitoring and Reporting

To maintain compliance, dischargers will, with the advice of qualified professionals as required, provide:

- monitoring procedure planning during the facility design phase
- regular reporting of monitoring data
- tracking and analysis of problems detected through monitoring
- increased frequency of monitoring in problem situations
- early warnings on pending or probable non-compliance.

Inspections

Ministry staff may conduct inspections of registered dischargers either on a scheduled basis or in response to complaints or incident reports. These inspections may include discussions with discharge facility staff, reviews of operating records and monitoring data stored on-site, examination of works, and sampling effluent for analysis.

Inspections may also be carried out by third parties who report to the ministry. Inspection results will lead to appropriate follow-up action from within the compliance continuum.

Operational Audits

Monitoring may indicate the need for operational audits. Since operational audits can be expensive, they will generally be reserved for situations that are difficult to interpret, or that involve legal problems. Such an operational audit represents an escalation of action in recognition of developing or actual problems.

However, auditing will also occur routinely. A limited number of facilities will be audited each year instead of receiving routine inspections. Dischargers will be reminded annually in writing that they are responsible for compliance and that they may be audited.

Audit teams will conduct detailed file and data reviews, and their fieldwork will cover all aspects of facility operation. Should they find non-compliance, appropriate follow-up action from the compliance continuum will be taken.

Investigation
An investigation entails gathering evidence on reasonable grounds that the regulation has been contravened. It seeks to prove the truth or falsity of alleged non-compliance based on the evidence it yields.

Response Actions

Response action will be taken based on an assessment of the relative risk that non-compliance poses to the environment and on the likelihood of achieving compliance through application of appropriate response actions. The strength of the evidence indicates what response action may be appropriate, such as:

- written warning
- pollution prevention order
- pollution abatement order
- administrative penalties
- violation tickets
- court action/ prosecution.

Written Warning
Warnings play an integral role in achieving and maintaining compliance.

- **first level**: based on problem detection from monitoring data.
- **second level**: based on operational audit data or increased monitoring activity.

Written warning involves sending a notice by registered mail to a discharger indicating that the discharger has contravened the regulation. The notice advises the discharger to comply with the regulation or risk legal action. It also provides both the discharger and the ministry with official documentation of the offence. Written notice requires the same standard of proof as formal prosecution.

Pollution Prevention Order
When a Regional Waste Manager believes that a pollutive substance is likely to be released, then the manager may order the responsible party to take corrective action. Corrective action may include any action that the manager considers necessary to prevent pollution, such as research, or repair or construction of works. When the party responsible is a municipality, then the order will be issued by the minister.

Pollution Abatement Order
When a Regional Waste Manager believes that pollution is occurring, then the manager may order the responsible party to undertake remedial action. Remedial action may include any action that the manager considers necessary to abate the pollution, such as research, or repair or construction of facilities. When the party responsible is a municipality, then the order will be issued by the minister.

Administrative Penalties
An administrative penalty, like a violation ticket, provides an immediate monetary penalty for non-compliance. However, an administrative penalty does not invoke the power of the court. It is intended to promote compliance while avoiding the time and expense of court proceedings for offences of a relatively minor nature.

This option is currently not available. However, the types of non-compliance for which administrative penalties may be levied, the factors to be considered in assessing penalties, and penalty amounts would be prescribed in a separate regulation.

Violation Tickets
While not currently available for the Municipal Sewage Regulation, a violation ticket would impose an immediate monetary penalty for less serious incidents of non-compliance. Ticketable offence provisions are specified in the Violation Ticket Administration and Fine Regulation of the *Offence Act*. This designates specific offences, maximum fines, and the enforcement officials who can issue tickets. A violation ticket is a legal notice that invokes the power of the court.

Court Action/ Prosecution
Court prosecution is the final enforcement tool. It is considered when the available evidence indicates a substantial likelihood of conviction, and when other compliance options are inappropriate or ineffective.

Escalating Response to Non-compliance

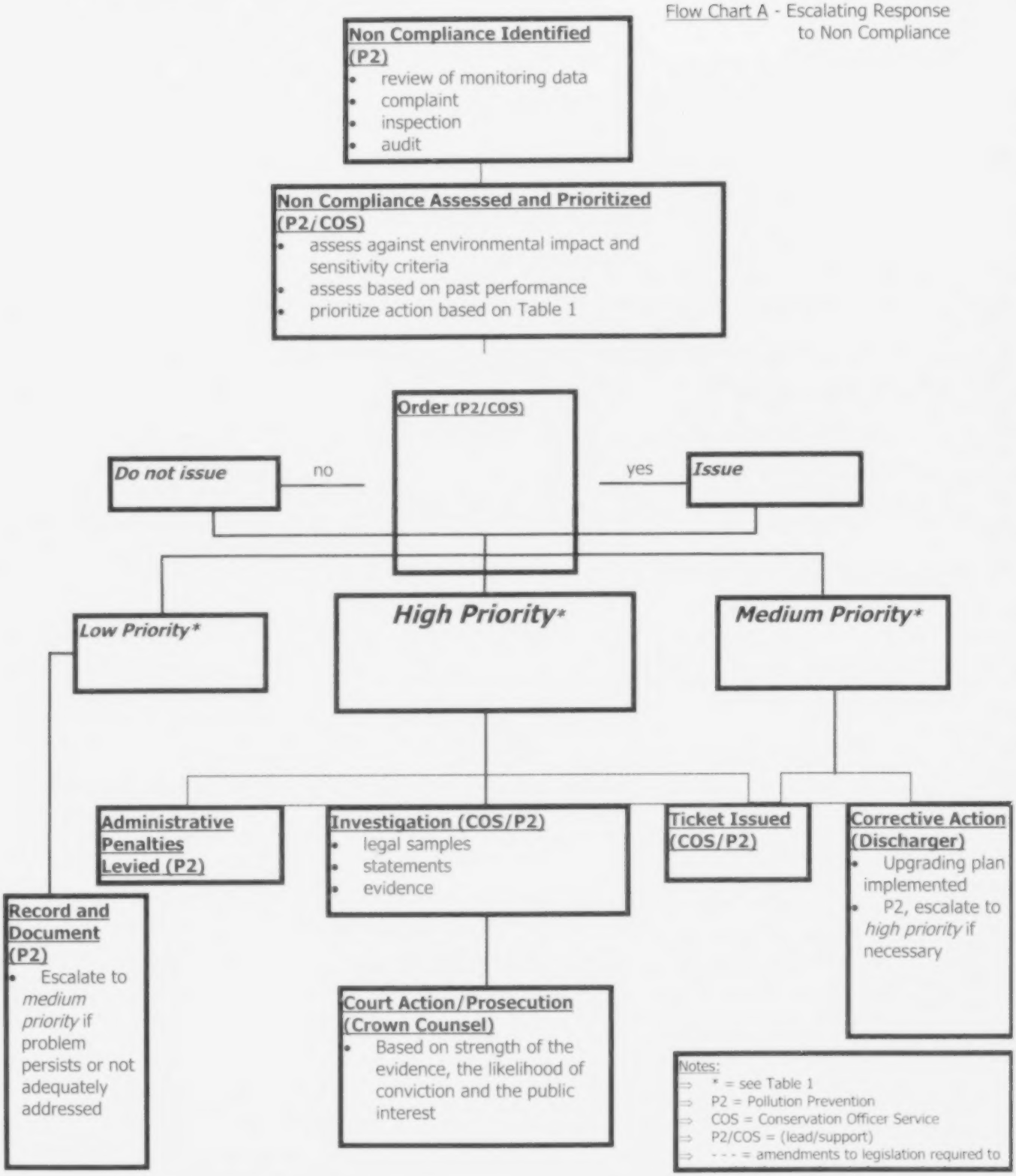
The ministry has clearly defined its expectations for compliance through the regulation and the accompanying guidance and policy and procedure documents. The ministry has also clearly communicated its expectations to dischargers and stakeholders. Dischargers are expected to understand the regulation and to meet all requirements.

Implementation of the regulation is based on the principles of stewardship and professional accountability. Compliance is the responsibility of dischargers, and the ministry will respond to complaints, conduct inspections and audits of registered discharges, and take appropriate action when non-compliance is identified.

Each incident of non-compliance will be assessed for the potential or actual effect on human health and the environment, according to the sensitivity criteria described in the table of priorities, above (see *Compliance Priorities*).

The following flow chart outlines options for the escalating response to non compliance.

Flow Chart A - Escalating Response to Non Compliance


Non Compliance Identified (P2)
• review of monitoring data
• complaint
• inspection
• audit
Non Compliance Assessed and Prioritized (P2/COS)
• assess against environmental impact and sensitivity criteria
• assess based on past performance
• prioritize action based on Table 1
Order (P2/COS)
Do not issue
no
yes
Issue
Low Priority*
High Priority*
Medium Priority*
Administrative Penalties Levied (P2)
Investigation (COS/P2)
• legal samples
• statements
• evidence
Ticket Issued (COS/P2)
Corrective Action (Discharger)
• Upgrading plan implemented
• P2, escalate to high priority if necessary
Record and Document (P2)
• Escalate to medium priority if problem persists or not adequately addressed
Court Action/Prosecution (Crown Counsel)
• Based on strength of the evidence, the likelihood of conviction and the public interest
Notes:
⇒ * = see Table 1
⇒ P2 = Pollution Prevention
⇒ COS = Conservation Officer Service
⇒ P2/COS = (lead/support)
⇒ - - - = amendments to legislation required to

8. Responding to Complaints

Receiving Complaints

By policy, every complaint brought to the ministry's attention is recorded and assessed and an appropriate response is made. Through the *Freedom of Information and Protection of Privacy Act* the identity of individuals who register complaints or express concern is protected.

Complaints should be referred to the appropriate regional office. In addition to the following contact information, all regional offices can be contacted via the ministry website: www.elp.gov.bc.ca.

Vancouver Island Region
2080 Labieux Road,
Nanaimo, BC V9T 6J9
Phone (250) 751-3100
Fax (250) 751-3103

Cariboo Region
400-640 Borland Street,
Williams Lake, BC V2G 4T1
Phone (250) 398-4530
Fax (250) 398-4214
Website:
http://www.elp.gov.bc.ca/car

Lower Mainland Region
2nd floor, 10470-152nd Street,
Surrey, BC V3R 0Y3
Phone (604) 582-5200
Fax (604) 930-7119
Website:
http://www.elp.gov.bc.ca/sry

Skeena Region
Bag 5000, 3726 Alfred Avenue,
Smithers, BC V0J 2N0
Phone (250) 847-7260
Fax (250) 847-7591
Website:
http://www.elp.gov.bc.ca/ske

Southern Interior Region
1259 Dalhousie Drive,
Kamloops, BC V2C 5Z5
Phone (250) 371-6200
Fax (250) 828-4000
Website:
http://www.elp.gov.bc.ca/sir

Omineca-Peace Region
3rd Floor, 1011 Fourth Avenue,
Prince George, BC V2L 3H9
Phone (250) 565-6135
Fax (250) 565-6629
Website:
http://www.elp.gov.bc.ca/nor

Kootenay Region
401-333 Victoria Street,
Nelson, BC V1L 4K3
Phone (250) 354-6333
Fax (250) 354-6332
Website:
http://www.env.gov.bc.ca/kor/

Addressing Complaints

Complainants are encouraged to provide the most complete details possible when reporting incidents. This aids ministry evaluation and response. Incident reports should include:

- date and time of occurrence
- location of occurrence
- weather conditions
- name and contact information of suspected violator if possible
- details of incident, including photographs if available
- complainant information for appropriate follow-up.

Ministry responses will serve at least one of these purposes:

- to protect human health and the environment
- to deter future non-compliance
- to educate the public
- to penalize non-compliance.

When a complaint leads to proof that the regulation, the *Waste Management Act*, or other relevant legislation has been contravened, the ministry response could include:

- investigation
- written warning
- violation tickets [currently not available]
- administrative penalties [currently not available]
- court action/prosecution.

See *Achieving Compliance.*

9. Linkage with Assurance Plans

Managing sewage treatment facilities can be complex. It entails technical, managerial, and financial risks. The involvement of a local government reduces the risk to the province to the point that financial security between the local government and the ministry is not necessary. However, for private residential dischargers, the regulation addresses the risk of failure by providing three options:

- providing financial security through a capital replacement fund and posting a "cash" security with the ministry
- operating the system under a local service area bylaw enacted by the local government
- obtaining an approved assurance plan.

While the assurance plan option is a legal requirement only for private residential dischargers, all dischargers can reap benefits by applying assurance plan concepts to their discharges.

Purpose

Assurance plans are intended to ensure that dischargers have sufficient managerial, technical, and financial resources for the ongoing operation and maintenance of their facilities. An assurance plan also documents the results of a detailed process to identify and examine risks of facility failure and how to mitigate those risks.

Content

A properly prepared assurance plan consists of:

- a complete template authorized by the discharger (see *Assurance Plan Guideline*)
- descriptions of the potential failures and planned risk-mitigation measures
- supporting documentation (e.g. policy and procedure manuals)
- evidence of insurance coverage
- evidence of other financial guarantees.

Assurance plan risk analysis should address these five concerns:

A. What can go wrong?	• Risks that affect operation and maintenance.
B. What are the potential effects?	• Facility failure can lead to service interruption, human health impacts, environmental damage, community impairments, legal liabilities, and financial costs.
C. How should the risks be dealt with?	• Dischargers should carefully assess the various risks and develop appropriate mitigation strategies, considering: • reducing the likelihood of failure • accepting the risk (i.e. taking no action).
D. What are the residual risks (effects after mitigation)?	• Implementing mitigation measures will reduce the overall risk of operating a facility and the need for financial resources to ensure ongoing operations and maintenance.
E. How should the financial consequences be covered?	• Insurance instruments can cover premature failures, while financial guarantees are used for predictive failures.

See *Guidelines for Assurance Plans* available from the ministry.

Plan Approval

When a discharger opts to use an assurance plan, that discharger must submit it to the ministry for review and approval. Each assurance plan is reviewed by an expert consultant selected from a ministry roster. The ministry then reviews each plan and the expert consultant's report before approval by the director.

The expert consultant must consistently and objectively review each assurance plan and advise the ministry on its reasonableness, comprehensiveness, and practicality. He or she must be a professional with an engineering, accounting, or management background and risk management experience. The expert consultant cannot have contributed to any plan that he or she reviews.

Compliance

A properly prepared and executed assurance plan will reduce the risk of failure of a treatment facility, thereby promoting compliance. When risks are managed appropriately, costs will be reduced, and compliance achieved.

Appendix A: Glossary

assurance plan
a program whose insurance instruments are provided by a company registered under the *Insurance Act* with the Superintendent of Insurance, having sufficient quality assurance and technical, financial, and management resources to provide, or warrant the provision of, repairs to, or operation, maintenance, or replacement of sewage facilities registered under the program.

audit
a systematic and thorough examination and review of all facility operations or activities that could actually or potentially impact the environment.

discharger
an individual or corporation authorized under the Municipal Sewage Regulation or the *Waste Management Act* to introduce solid, liquid, or gaseous waste into the environment from a sewage facility, including effluent or reclaimed water.

due diligence
Before a facility goes into operation, due diligence comprises various actions designed to systematically ensure that regulatory requirements are met. Once a facility is operating, due diligence comprises a discharger's management policies, procedures, and activities to designed to systematically meet all regulatory requirements and commitments on a continuous basis.

enforcement
actions taken to compel compliance. An element of the compliance continuum.

liquid waste management plan
a local government's plan for the management of all aspects of liquid waste within a specified geopolitical area based on comprehensive evaluation; developed through a public consultation process and approved by the Minister of Environment, Lands and Parks under the *Waste Management Act*; providing local government more direct responsibility for municipal liquid waste discharges within their jurisdiction.

local service area
an area established by a local government bylaw for which fees and taxes may be collected from area residents to provide a specified service (e.g. sewage collection treatment, reuse and disposal services).

monitoring group
a third-party "watch dog" group established to review the activities and monitoring data of a particular discharger or group of dischargers within a defined area (e.g. watershed stream keepers group, rate payers association).

qualified professional
a specialist in a particular applied science or technology including, but not necessarily limited to, agrology, biology, chemistry, engineering, geology, or hydrogeology and

- who is registered in BC with an appropriate professional organization, acting under that association's code of ethics and subject to disciplinary action by that association
- who, through suitable education, experience, accreditation, and knowledge may be reasonably relied on to provide advice within his or her area of expertise.

reclaimed water
highly renovated effluent from a sewage facility that is suitable for a specified beneficial water reuse application. Depending on the treatment process and the quality of the reclaimed water it may be used directly (e.g. irrigation of a golf course) or indirectly (e.g. making concrete).

stakeholder
an individual, group, or agency that has an active interest in a specified outcome, such as protecting the environment.

supplier
an individual or company that provides sewage treatment, reuse or disposal goods, equipment, or technology.

Appendix B: Offence Classification and Penalties under the Municipal Sewage Regulation and the *Waste Management Act*

For dischargers of municipal sewage, the regulation provides the standards, requirements, and provisions for compliance with the *Waste Management Act*. However, compliance with the Municipal Sewage Regulation does not necessarily ensure compliance with other federal, provincial, or municipal laws (e.g. *Fisheries Act*).

This guideline is meant as an aid to implementing and complying with the regulation. It does not replace the *Waste Management Act* or its regulations in whole or in part, nor does it list all of the provisions relating to municipal sewage discharge. Wherever this guideline disagrees with the *Waste Management Act,* the act and its attendant regulations apply.

The following is a summary of the offence classification and penalties under the Municipal Sewage Regulation and those sections of the *Waste Management Act* directly related to the regulation.

What Constitutes an Offence

Non-compliance with any requirement of the regulation is an offence subject to various penalties as set out in either the regulation itself or in the *Waste Management Act*.

Three Categories of Offence

Offences fall into three basic categories:

1. contravention of specific sections of the Municipal Sewage Regulation for which a specific penalty is set out in the regulation
2. contravention of specific sections of the Municipal Sewage Regulation that nullifies exemption from the prohibition against discharging waste (i.e. sections 3(2) and (3) of the *Waste Management Act* prohibits the discharge of waste, unless the discharge is in compliance with a valid authorization under the *Act*)
3. in accordance with section 54(13) of the *Waste Management Act*, contravention of specific sections of the Municipal Sewage Regulation regarding discharge quality or quantity.

Category 1 Offences:
In accordance with section 29 of the regulation, contravention of any of the following sections of the regulation constitutes an offence subject to a penalty up to **$200,000** or **6 months imprisonment**, or both:

- 10(5): reclaimed water - dual distribution systems without cross connection safeguards
- 10(7): reclaimed water - using reclaimed water without authorization from a local health authority or local bylaw
- 10(8): reclaimed water – using reclaimed water on unrestricted property unless certain information is provided
- 14(1): sewage facility design requirements
- 16(1): sewage facility operational plan requirements
- 18(1): sewage facility inspection, maintenance, and notification requirements
- 21(1): sewage facility requirements for semi-solid waste management
- 22(1): sewage facility operator classification requirements
- 24: monitoring requirements to determine compliance.

The same penalty applies to offences involving intent to mislead, such as:
- submitting false monitoring data
- failing to retain monitoring data under 28(1)
- making a false report or failure to submit a report under 28(3) or (4).

Category 2 Offences
The Municipal Sewage Regulation provides exemption from sections 3(2) and (3) of the *Waste Management Act*. These sections of the *Waste Management Act* prohibit discharge of waste into the environment unless the discharge is authorized by a valid permit, approval, order, or approved waste management plan, or is in compliance with a regulation.

Unauthorized discharge to the environment constitutes an offence as defined by sections 54(3) and 54(19) of the *Waste Management Act* subject to a penalty of up to **$1 million** or **6 months imprisonment** or both. With respect to the Municipal Sewage Regulation, any person relying on registration under the regulation to provide *Waste Management Act* authority to discharge commits such an offence by contravening any of these sections:

- 2(1)(a): fulfil registration requirements
- 2(1)(b): pay registration fees
- 2(1)(c): pay annual fees
- 2(1)(d): comply with parts 3 to 7 - for example, sections:
  - ⇒ 5(4)(5)(6): setback requirements of initial dilution zones
  - ⇒ 7(1): effluent quality - meet requirements of schedules 2 to 5
  - ⇒ 8(1)(6): disinfection - provide disinfection, if necessary
  - ⇒ 8(2)(3)(7): dechlorination - if chlorination used dechlorination must be used
  - ⇒ 8(4): assess alternatives to chlorination
  - ⇒ 9(1)(3): discharges must pass toxicity test
  - ⇒ 10(1)(2)(4)(5)(7)(8): reclaimed water - meeting quality and operational requirements
  - ⇒ 11(1): discharges to water - must meet effluent quality standards (schedule 3 or 5) and must complete an environmental impact study
  - ⇒ 11(2): discharge to water - must not discharge to prohibited water bodies as specified in schedule 5

- ⇒ 12(1): discharges to ground - must meet effluent quality standards (schedule 4 or 5) and must complete an environmental impact study
- ⇒ 13(2): advanced treatment - must meet requirements of schedule 5, if applicable
- ⇒ 14(1): sewage facility design requirements
- ⇒ 15(1): design process for large municipality
- ⇒ 16(1)(2): sewage facility operational plan requirements
- ⇒ 18(1)(2)(3): sewage facility inspection, maintenance and notification requirements
- ⇒ 18(4): bypasses prohibited unless authorized
- ⇒ 18(5): unauthorized bypasses and spills must be reported immediately
- ⇒ 20(2): non-domestic waste to municipal sewage system prohibited unless requirements met
- ⇒ 20(3)(4): source control bylaw requirements must be met
- ⇒ 21(1)(2): sewage facility requirements for semi-solid waste management
- ⇒ 22(1)(2)(3)(4)(5)(6)(7): sewage facility operator classification requirements
- ⇒ 23(1): fees for assessing operator qualifications
- ⇒ 24: monitoring requirements to determine compliance
- ⇒ 28(1)(2)(3)(4)(5)(6)(7)(8): reporting requirements
- ⇒ 2(1)(e): comply with conditions in Schedule 1.
- ⇒ 2: change of registration information - must provide notification
- ⇒ 3(1)(2): water quality standards - must meet known water quality guidelines
- ⇒ 4(1): manager's direction - must meet standards or requirements imposed by a Regional Waste Manager
- ⇒ 5(3)(4)(5)(8): financial security for private residential development requirements must be met
- ⇒ 6(2)(3): assurance plans requirements
- ⇒ 7(1)(3): reporting requirements for assurance plans
- ⇒ 8(2): requirements for environmental impact studies
- ⇒ 9: requirements for environmental impact studies for combine and sanitary sewer overflows
- ⇒ 10(1): requirements for environmental impact studies on new or expanded sewage treatment facilities
- ⇒ 11: must meet design standard as specified in schedule 7
- ⇒ 12: must not construct facilities until at least 90 days after registration
- ⇒ 14(2)(3): must not construct or expand combined sewer systems
- ⇒ 15(1)(2)(4): requirement concerning addressing combined sewer overflows
- ⇒ 16(1)(2)(4): requirement concerning addressing sanitary sewer overflows
- ⇒ 17(1)(2): requirements concerning inflow and infiltration.

Category 3 Offences

In accordance with sections 54(13) and 54(19) of the *Waste Management Act*, any person contravening regulatory requirements relating to the quantity or characteristics of waste introduced into the environment commits an offence subject to a penalty of up to **$1 million** or **6 months imprisonment** or both. With regard to the Municipal Sewage Regulation, contravention of any of the following sections constitutes such an offence:

- 7(1): must meet effluent quality standards specified in schedules 2 to 5
- 8(3): must dechlorinate to specific total residual chlorine limit (also a category 2 offence)
- 8(5): disinfection levels (schedules 2 to 4)
- 9(1): must pass toxicity test (also a category 2 offence)
- 10(1): meet reclaimed water quality standards (schedule 2) (also a category 2 offence)
- 11(1): discharges to water - must meet effluent quality standards (schedule 3 or 5) (also a category 2 offence)
- 12(1): discharges to ground - must meet effluent quality standards (schedule 4 or 5) (also a category 2 offence)
- 13(2): advanced treatment - must meet effluent quality standards of schedule 5, if applicable (also a category 2 offence).

Appendix C: Provincial Regional Map

Appendix D: MSR Website

The regulation website provides:

- general information about the regulation including how to obtain a hard copy
- an inventory of sites registered under the regulation
- supporting implementation materials such as guidelines, codes of practice, policies, procedures, and protocols
- forms
- guidance materials such as fact sheets and technical bulletins
- communication materials such as frequently asked questions
- useful links.

The Ministry of Environment, Lands and Parks will use this website as a key information link regarding the regulation and its implementation. Readers are encouraged to bookmark it and check it regularly for reference. When information is updated and additional materials are developed, they will be posted at this website.

Visit the website at **www.elp.gov.bc.ca/epd/epdpa/mpp/msrhome.html**.